IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8769 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAJNIKANT JETHALAL SHAH

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8769 of 2002

MR JAGDISH H MEHTA for Petitioner No. 1

MR PRASHANT MANKAD for Petitioner No. 1

MR GORI, AGP for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 22/12/2003

ORAL JUDGEMENT

Heard learned advocate Mr. Prashant Mankad for petitioner and learned AGP Mr. Gori appearing on behalf

of respondents.

2. The present petition is filed by the petitioner claiming the interest upon the delayed payment of gratuity and pension from the respondents.

3. This Court has passed an order issuing rule on 13.01.2003 and by way of interim relief, directed the respondents to hold the inquiry and find out the responsibility of the concerned officer why the delay has occurred in making the payment to the petitioner. In pursuance to the interim order passed by this Court, a detailed report has been submitted by the respondent along with the affidavit of one Mr. Sujan V Trivedi, Director, Bureau of Economics and Statistics, Gandhinagar dated 19.4.2003. Copy of the same is received by the petitioner. I have perused the entire report as well as affidavit produced by respondent. Considering this report, the petitioner who retired from service on 31.7.1999, at that occasion two departmental inquiries were pending against him. In one case he was punished by the department and in another case the inquiry was over on 7.3.2000. Thereafter further process of issuing no event certificate took some time because of some correspondence between the respective department as a legal procedure which is necessary for issuing no event certificate. Ultimately, looking to the report, there is no deliberate intention on the part of the respondent authority for not making the payment in time to the petitioner. On the contrary, day-by-day process shows that sufficient care has been taken by the respondents to meet the petitioner's requirement for payment. Therefore, considering the entire report as well as the affidavit, according to my opinion, there is no deliberate delay on the part of the respondent, therefore, petitioner is not entitled to claim any amount of interest upon the delayed payment which has been made to the petitioner by respondents on 12.3.2001. One fact is necessary to be noted that all the payment has been made to the petitioner on 12.3.2001, now nothing remain. Therefore, considering this fact, according to my opinion petitioner is not entitled to any amount of interest as delay is not deliberate on the part of the respondent department and therefore, there is no substance in the present petition, present petition is therefore dismissed. Rule is discharged. No order as to costs.

(H.K.Rathod,J)

Jayanti*